INFORMATION LETTER

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WAGE AND HOUR EXEMPTION FOR FISHERY INDUSTRY IS GIVEN A REVISED INTERPRETATION BY ADMINISTRATOR

Interpretative Bulletin No. 12 to be Issued in an Amended Form

A revised interpretation of the exemption provided by section 13(a)(5) of the Fair Labor Standards Act for employees in the seafood and fishery industry has been announced by L. Metcalfe Walling, Administrator of the Wage and Hour and Public Contracts Divisions of the U. S. Department of Labor. This intrepretation, Mr. Walling said, was adopted because the Divisions' experience in administering the act and studies made of conditions in the industry have brought to his attention many problems of practical importance to both employers and employees in the industry which have remained unsolved under the previous rulings. He said that he thought the new interpretation would more accurately reflect the congressional intent as evidenced by the language of the exemption and its legislative history.

The Administrator stated the general principles which would guide him in his future enforcement of the act with respect to this exemption, and said that previous interpretations, including those expressed in Interpretative Bulletin No. 12, Releases R-1609 and R-1644, are superseded insofar as they may conflict with these principles. He also said that Interpretative Bulletin No. 12 is being revised to accord with the principles announced and will be issued at an early date for the information of employees and employers in the industry.

Mr. Walling summarized the Division's present position with respect to the exemption as follows:

Section 13(a)(5) of the Fair Labor Standards Act provides that the minimum wage and overtime requirements of the act shall not apply with respect to "any employee employed in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment or in propagating, processing, marketing, freezing, canning, curing, storing, or distributing the above products or byproducts thereof."

Both the language of the exemption and the legislative history make it clear that exemption under section 13(a)(5) depends upon the work of the individual employee. The exemption is not an industry exemption or an exemption for employees in a particular place of employment as such. On the other hand, the terms used in this subsection appear to have been intended to denote broad fields of activity relating to the seafood and fishery industry and should not be confined in meaning to specific physical operations so that only employees actually engaged in performing such operations would come within the exemption. In general, the applicability of the exemption is to be tested by the functional relationship of an employee's *occupation* to the activities mentioned in section 13(a)(5) rather than the engagement by the employee in the *specific physical operations* which the terms used in that section may describe.

It will be observed that the activities described in section 13(a)(5) fall into two general groups. The first group which embraces "the catching, taking, harvesting, cultivating, or farming of

(Continued on page 8594)

Truman Announces He Will Follow Roosevelt Policies

A few hours after the sudden death of Franklin D. Roosevelt on Thursday afternoon at Warm Springs, Ga., Vice President Harry S. Truman took the oath of President, announced that he would carry on as he believed President Roosevelt would have done, asked the Cabinet to remain in office, told Secretary of State Stettinius to proceed with plans for the San Francisco Conference, which will open on April 25, called a meeting of military leaders on Friday, and issued a statement pledging prosecution of the war "with all vigor we possess, to a successful conclusion."

Simple funeral services for President Roosevelt were held in the East Room of the White House at 4 o'clock Saturday afternoon, with burial to be made at Hyde Park, N. Y., on Sunday.

SENATE VOTES ONE-YEAR EXTENSION OF LEND-LEASE; COMMITTEE APPROVES FLANNAGAN FARM LABOR BILL

Congress was occupied chiefly with various investigations during the past week, with the House holding brief sessions on Monday and Thursday. The Senate approved legislation to extend Lend-lease for a year and debated the treaty with Mexico on the utilization of the waters of certain rivers.

With the accession of Vice President Truman to the office of President, Senator McKellar, president pro tempore of the Senate, becomes permanent presiding officer of that branch of Congress.

The bill (H. R. 2013) to extend authority to grant Lend-lease aid for one year from June 30 was passed by the Senate on Tuesday after unsuccessful efforts to amend it by the addition of provisions to impose a ban on deals carrying over into the post-war period and to prohibit export of farm machinery under Lend-lease. The bill as passed and sent to the President for signature contains a provision that Lend-lease cannot be used for post-war relief, rehabilitation or reconstruction, but provides for a clean-up period of three years during which deliveries contracted for during the life of the Act may be made.

House leaders having decided not to consider the manpower bill (H. R. 1752) as passed by the Senate, the Senate Military Affairs Committee on Tuesday voted a favorable report on the House-passed Flannagan resolution (H. J. Res. 106) with an amendment making the resolution read as follows:

"In carrying out the provisions of this subsection the Selective Service local board in classifying the registrant shall base its findings solely and exclusively on whether the registrant is necessary to and regularly engaged in an agricultural occupation or endeavor essential to the war effort and whether a satisfactory replacement can be obtained, without reference to the relative essentiality of the registrant to an agricultural occupation or endeavor as

compared with any other occupation, service, or endeavor; and the foregoing provision of this sentence shall apply upon any appeal or resume of a decision made thereunder by a Selective Service local board."

The Senate Food Investigating Committee continued to hear witnesses on the meat situation, among them Frederick M. Tobin, president of the National Independent Meat Packers Association and Thomas I. Emerson, OPA deputy administrator for enforcement. Mr. Emerson was closely questioned by members of the committee, who were severely critical of his statements as to the extent of the black market in meat and the effectiveness of OPA enforcement work. As noted elsewhere, Mr. Emerson is leaving OPA to become general counsel for the Director of Economic Stabilization.

G. Osmond Hyde, formerly an attorney in the War Frauds Division of the Department of Justice, has been appointed by Representative Clinton P. Anderson as chief counsel of the House Committee Investigating Food Shortages. Hearings will be held in Chicago on April 16-17, in Cleveland on April 18, in Boston on April 23, in Providence, R. I., on April 24, and in New York on April 25.

Public hearing on the Doughton bill (H. R. 2652) to extend the Reciprocal Trade Agreement Act for three years and to authorize the President to lower the tariffs in effect January 1, 1945, by 50 per cent (see INFORMATION LETTER, page 8574) will start on April 18.

Senator Reed of Kansas introduced a resolution (S. Res. 115) on Monday to authorize an investigation into the shortage of railroad cars to remove the 1944 grain crop from Midwest farms before the 1945 crop is harvested.

Hearings on the shortage of railroad cars in Montana and other northwestern States for the transportation of grain will open on April 17 before the Senate Interstate Commerce Committee.

Hearings before the Foreign Trade Subcommittee of the Senate Special Committee to Study Problems of American Small Business will begin April 16, according to Subcommittee Chairman Claude Pepper. Witnesses at the hearing will include government officials and representative business leaders.

Senator Wheeler has proposed three amendments to the bill (H.R. 2625) extending the life of the Selective Service Act now on the Senate calendar. These amendments would prohibit the drafting, after organized hostilities in the European war have ceased, of farmers essential to the war effort and of men married before September 8, 1941, and would require that youths under 19 be given one year of training before being sent into combat duty.

The House Foreign Affairs Committee heard on Thursday the chief executives of various government agencies support the proposed legislation (H.J. Res. 145) to provide for this country's participation in the Food and Agriculture Organization, a product of the United Nations Conference at Hot Springs, Va., nearly two years ago and to authorize not more than $1,250,000 annually as the United States share of expenses. Among those appearing were Secretary of Agriculture Claude R. Wickard, War Food Administrator Marvin Jones and Assistant Secretary of State Dean Acheson. Statements were submitted for Secretary of State Edward R. Stettinius and Assistant Secretary of State William L. Clayton.

Boxboard Production Increases

Although boxboard production has increased recently above the average monthly production in 1944, demands have also increased and more boxboard is needed, a joint meeting of the Folding and Set-Up Box Industry Advisory Committees were told by paperboard officials of the War Production Board.

Shortages of pulp caused reductions in second-quarter allocations for virtually every paper and paper product, except for the manufacture of certain explosives and craft containerboard liners, WPB said. As a result, possible methods of conservation in the amount of pulp going into folding and set-up boxes were discussed.

Committee members said that emphasis is sometimes placed on the urgent need for fiber shipping containers at the expense of folding and set-up boxes, which they consider equally essential in national packaging problems. Cartons and boxes for packaging both military and civilian materials, foods, supplies and many articles separately, are used extensively, even though often assembled and packed in large fiber containers for shipment, they said. If the boxboard industry is required to produce more containerboard for shipping containers, it can only be done at the expense of decreasing folding and set-up box production, they pointed out.

Less Steel for Farm Machinery

Allocation of controlled materials for the production of farm machinery in the second quarter of 1945 has been cut to 195,000 tons as against a net usage of 256,000 tons in the first quarter of the year, and 279,000 tons in the second quarter of 1944, War Production Board officials told members of the Farm Machinery and Equipment Industry Advisory Committee at a recent meeting. The cut will be absorbed in the production of new machinery, WPB said, as the amount allotted for repairs remains the same.

The full year's allotment will be based upon that of the second quarter unless the present accelerated demands of the military for steel, due to the pace of the war in Europe, are reduced. The committee was assured that an increase in their allotments could be expected after V-E Day, a stepped-up farm machinery program being a "must" as soon as materials are available.

It is expected that there will be no reductions in quotas, the reduced production being controlled entirely through allotments of material. This, WPB officials explained, is to permit the acceleration of the farm machinery program with as little delay as possible in the event the war in Europe ends this year. Inventories on hand may be used to supplement the new allotments, and should partially offset the effect of the reduction.

Indiana Canners to Meet

The Spring meeting of the Indiana Canners Association will be held at Indianapolis on April 19. It will be in the nature of an informal conference and discussion on current industry problems.

Food Supply Drops Below 1944

Total civilian food supplies per capita during the next few months will be appreciably below the level of last spring, but as large as the average pre-war level of the 1935-39 period, the Bureau of Agricultural Economics reported last week. Prospective supplies of eggs, cereal products, fresh vegetables, apples, citrus fruits, fresh and frozen fish, and fluid milk are large, and sufficient to meet increased demand resulting from substitution for other foods which will be short.

Foods which will be particularly short of demand in many sections of the country include meat, poultry, butter, canned fish and canned fruits. Potatoes and rice are expected to be short of civilian demand in some areas, while rationed distribution of the short supplies of canned vegetables, cheese, lard and other fats and oils will continue.

BAE said increased Victory Garden production and home canning are needed to supplement commercial supplies of food.

WFA Sets Designated Prices for Vegetables for Freezing

Designated prices on eight vegetables —asparagus, snap beans, beets, carrots, sweet corn, green peas, lima beans and spinach—to be used for freezing in 1945, have been announced by the War Food Administration. These prices (see table below) will be used by the Office of Price Administration as the maximum raw material costs to be reflected in the 1945 ceiling prices of the frozen products. In computing individual ceiling prices, freezers will reflect their actual costs of raw materials, not to exceed the prices designated.

In addition to the eight vegetables named, a miscellaneous group—including (but not limited to) broccoli, Fordhook lima beans, cauliflower, pumpkin, and squash—is designated as subject to an increase up to 20 per cent over 1942 prices.

The prices specified represent the value per ton of the kind and quality of raw vegetables used for freezing on a basis comparable to the established State and area average support or designated prices for canning:

Commodity and State	Per ton
Asparagus:	
California	Same as 1943
All other States	1943 prices plus $10
Beans, green lima (other than Fordhook type):	
New Jersey	$128.00
Arkansas, Washington, Oregon, California and Idaho other than Southeastern [1]	115.00
New York, Pennsylvania, Delaware, Maryland, Virginia's Eastern Shore[2], Utah, Wyoming, and Idaho Southeast[1]	100.00
All other States and areas	95.00
Beans, snap:	
New Jersey	125.50
California, Oregon and Washington	110.00
Arkansas	105.00
New York	100.00
Delaware, Maryland, Virginia, and Pennsylvania	92.50
Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut	90.00
Minnesota, Wisconsin, Michigan, Illinois, Indiana, Iowa, Ohio and Nebraska	85.00
All other States	80.00
Beets:	
New York, New Jersey, Washington, Oregon, California	21.00
All other States	19.00
Carrots:	
New York and New Jersey	22.00
All other States	20.00
Corn, sweet:	
Maine and New Hampshire	28.00
Washington, Oregon, Utah and Idaho	23.00
Vermont	22.00
New York	21.00
Pennsylvania, New Jersey, Delaware, Maryland, Virginia, Indiana, Illinois and Central and Eastern Iowa[3]	19.50
Michigan, Ohio, Wisconsin, Minnesota and Missouri	17.50
All other States and areas	17.50
Peas, green:	
New Jersey	111.00
Oregon, Western[4]	98.00
Delaware and Maryland	91.00
Pennsylvania, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut	90.50
Virginia	89.50
Washington (Western)[5] and Idaho	89.00
Maine and Utah	88.50
New York	88.00
Iowa other than Southwestern[6], West Virginia, North Carolina, Kentucky, and Tennessee	86.00
Illinois and Wisconsin, (Southeastern)[7]	85.00
Minnesota, Wisconsin, (Northwestern)[8] Alabama, Florida, Georgia, Louisiana, Mississippi, and South Carolina	82.50
Arkansas	81.00
Ohio	80.50
Washington other than Western[5], and Oregon other than Western[4] (except Malheur County)	79.00
Michigan and Texas	78.50
Indiana and Oregon (Malheur County)	77.50
Missouri, Iowa (Southwestern)[6] Nebraska, Oklahoma, and Kansas	76.50
Arizona and Nevada	76.00
California, Colorado and Montana	74.00
North Dakota and South Dakota	73.50
Wyoming	73.00
New Mexico	71.00
Spinach:	
Delaware, Maryland, Virginia, New Jersey and Pennsylvania, other than Northern[9], cut below crown	70.00
Arkansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas other than Southeastern[10], cut above crown	70.00
Oregon, Washington, and Texas (Southeastern)[10] cut above crown	50.00
Oregon and Washington, cut below crown	35.00
New York and Pennsylvania (Northern)[9] cut above crown	34.00
California, uncut	22.50
All other States, cut above crown	32.00
Miscellaneous vegetables (including Fordhook lima beans, broccoli, cauliflower, pumpkin, squash and any other vegetable not designated in the preceding items)	1942 price plus 20 per cent

[1] Southeastern Idaho: Franklin, Oneida, Bannock, and Bearlake Counties.

[2] Eastern Shore Virginia: Accomac and Northampton Counties.

[3] Central and Eastern Iowa: The area bounded by, included in, and to the southeast of Clayton, Fayette, Bremer, Butler, Franklin, Wright, Humbolt, Pocahontas, Buena Vista, Sac, Calhoun, Webster, Boone, Dallas, Madison, Union, Ringgold Counties.

[4] Western Oregon: Counties west of and including Wasco, Marion, Linn, Lane, Douglas, and Jackson.

[5] Western Washington: Whatcom, Skagit, Snohomish, King, Pierce, Lewis, Skamania, Cowlits, Clark, Wahkaikum, Pacific, Thurston, Grays Harbor, Mason, Kitsap, Jefferson, Gallum, Island, and San Juan Counties.

[6] Southwestern Iowa: Mills, Fremont, and Page Counties.

[7] Southeastern Wisconsin: All counties south and east of and including the counties of Marinette, Oconto, Shawano, Waupaca, Waushara, Adams, Juneau, Sauk, Richland, and Crawford.

[8] Northwestern Wisconsin: All counties north and west of those listed in [7].

[9] Northern Pennsylvania: Counties of Erie, Crawford, Mercer, Venango, Warren, Forest, McKean, Potter, Tioga, Bradford, Susquehanna, and Wayne.

[10] Southeastern Texas: The area south of and including the counties of Webb, McMullen, Live Oak, Karnes, Dewitt, Lavaca, Colorado, Austin, Waller, Harris, and Chambers.

WMC Says 500,000 Workers Needed to Process 1945 Crop

In announcing its plans for the interregional recruitment of migratory workers for the canning, dehydrating, drying, freezing and packing of perishable fruits and vegetables, the War Manpower Commission, April 11, said upwards of 500,000 part-time and full-time workers will be needed to process the 1945 crop.

The number of migratory workers—those who follow the crops to work in food processing plants—will be a relatively small but important part of the total number of workers, full-time and part-time, needed. For the most part, communities in which canning, drying, dehydrating and freezing plants are situated will have to depend largely on volunteer labor furnished by youths, teachers, merchants, housewives and others, WMC said.

The number of migratory workers may be augmented somewhat by the use of foreign workers from the West Indies, and possibly some from Mexico, WMC said.

The over-all number of workers needed will be dependent on the size of the crops of fruits and vegetables harvested and the weather conditions during the harvesting period.

Manpower needs in food processing will be filled through recruitment drives with well-planned publicity in every major canning and packing area in the country, WMC said.

"For the most part, in order to pack the crop of fruits and vegetables the nation must, as in former war years, depend on volunteer services of tens of thousands of persons not normally in the labor market," said Paul V. McNutt, chairman of WMC. "If youths, housewives, merchants, ministers, retired persons and others respond this year as they did last year, we should have no great difficulty in canning and otherwise processing the fruit and vegetable crops. We are still at war and need all the processed foods we can get—as much as we have ever needed them."

Meat Canners Association

T. C. Tait, Swift & Company, Chicago, was elected president of the National Meat Canners Association at the Association's recent annual meeting in Chicago. Other officers elected include R. M. Smith, Wilson & Co., vice-president; J. Emmett Clair, Republic Food Products Co., secretary; and Henry Manaster, United Packers, Inc., treasurer. All of the organization's directors were re-elected.

WFA Condensed Milk Offers

The War Food Administration is offering for sale to the original processors two lots of sweetened condensed milk totaling 1,346 cases, each containing 48 15-ounce cans. They will have until 5 p. m., EWT, April 18, to accept the offer.

Topping Tomato Seedlings

Tomato plants which may have to be held in flats for a longer period than originally planned may become very tall and leggy and therefore more difficult to handle in a transplanting machine or to transplant by hand. This difficulty can be overcome by topping the plants at the right time, according to the results of experiments conducted at the New York Agricultural Experiment Station and reported in the April 1 issue of "Farm Research," a quarterly bulletin published by that Station.

The best results from topping were obtained when the plants were topped not later than 6 weeks after the seedlings are "pricked off" into flats. Later topping delayed blossoming and fruiting. Methods of topping are described and the effect of topping at different ages is well shown in illustrations.

Intended Corn and Bean Acreage

An increase of about 4 per cent in the acreage intended for sweet corn for processing and a decrease of about 4 per cent in the acreage of snap beans are indicated by reports received by the U. S. Department of Agriculture from processors. These reports are based upon intentions as of late March.

If corn processors carry out their plans, the acreage planted to sweet corn for canning and freezing will total 553,000 acres in 1945 compared with 529,980 acres planted in 1944 and 556,760 acres in 1943. Loss of acreage planted to sweet corn has averaged 6 per cent annually during the past 10 years. On this basis a planting of 553,000 acres in 1945 would result in about 519,800 acres for harvest compared with 491,920 acres harvested last year.

If snap bean canners carry out their plans, the snap bean acreage for canning and freezing will total 153,500 acres, compared with 159,460 acres planted in 1944 and an average of 83,630 acres for the period 1934-43. Loss of planted acreage for the past 10 years has averaged 6.2 per cent annually, and on this basis a planting of 153,500 acres in 1945 would result in a harvested acreage of about 144,000 acres compared with 152,620 acres harvested in 1944.

The following tables show, by States, the acreage that would result if late March intentions are realized:

CORN

States	1944 planted	1945 intended
	Acres	*Acres*
Maine	14,000	14,400
New Hampshire	450	450
Vermont	1,130	1,050
New York	28,500	29,300
Pennsylvania	15,200	15,500
Ohio	24,000	25,200
Indiana	46,600	48,000
Illinois	66,500	74,500
Michigan	5,200	5,200
Wisconsin	90,000	92,300
Minnesota	93,500	93,500
Iowa	55,000	55,600
Nebraska	2,700	3,300
Delaware	4,400	4,900
Maryland	47,000	52,200
Tennessee	2,500	2,500
Washington	12,600	13,000
Oregon	5,000	5,000
Other States	15,700	17,100
Total	529,980	553,000

SNAP BEANS

Maine	3,400	3,800
New York	18,800	21,200
Pennsylvania	6,600	6,000
Indiana	1,600	1,200
Michigan	8,700	7,200
Wisconsin	11,700	12,600
Delaware	1,900	2,000
Maryland	13,800	13,100
Virginia	5,600	5,300
North Carolina	4,000	3,600
South Carolina	4,800	3,500
Georgia	1,700	1,200
Florida	11,600	10,000
Tennessee	7,300	7,300
Mississippi	2,300	1,700
Arkansas	16,700	15,900
Louisiana	4,000	3,700
Oklahoma	10,000	9,500
Texas	8,200	7,000
Colorado	1,600	1,500
Utah	700	700
Washington	2,300	2,200
Oregon	4,600	4,700
California	1,140	1,000
Other States	6,420	7,600
Total	159,460	153,500

New York Sweet Corn Hybrids

A review of data on performance of sweet corn hybrids in western New York shows that Golden Cross Bantam remains supreme in its maturity group, according to studies conducted by the New York State Agricultural Experiment Station at Geneva. A report of these studies which was published in the April issue of the Station's quarterly, "Farm Research," states that Golden Cross matures its ears in 80 or 81 days and yields about 5 tons per acre of unhusked ears.

The report states further that most hybrids that are a week or more earlier than Golden Cross are unsatisfactory for canning or freezing, are of relatively poor quality, and yield appreciably less than Golden Cross. Two hybrids in this maturity range that are more promising than the rest, Seneca Golden and Tendergold are described as to ear and plant characteristics. Of the hybrids that mature later than Golden Cross, only Ioana and Tendermost deserve mention under western New York conditions.

Red Spider Control on Limas

Tests were conducted in the Long Island truck crop area by the New York State Agricultural Experiment Station at Geneva with sprays and dusts in which dusting sulfur was compared with rotenone and a dinitro compound. It was found that with the same materials dusts gave practically the same control as did sprays. Sulfur was highly effective in plant protection as was also a dinitro compound, although under high temperature the latter may at times cause some leaf burn. Cube and cube with Lethane were not effective in these tests.

It is evident that success in red spider control under average farm conditions depends to a marked degree upon early and continued treatment to control the pest. Satisfactory coverage of the under surfaces of the leaves is very important.

Details concerning the above tests are found in the Sixty-second Annual Report of the N. Y. State Experiment Station.

U. S. Citrus Production High

The 1944-45 orange crop is estimated to be a record of 106,788,000 boxes—4 per cent more than the 1943-44 crop and 25 per cent larger than the 1942-43 crop. Early and midseason varieties comprise about 43 per cent and Valencias 57 per cent of the total oranges for the 1944-45 season. Florida tangerine production is now estimated at 3,900,000 boxes—8 per cent more than in 1943-44 but 7 per cent less than in 1942-43.

Total U. S. grapefruit production is placed at 51,191,000 boxes, 9 per cent less than the record crop of last season but 1 per cent more than the 1942-43 crop. California lemon production is indicated to be 13,321,000 boxes which is 21 per cent more than last year's crop but 11 per cent less than in 1942-43.

New OPA Enforcement Chief

George Moncharsh of San Francisco, deputy administrator for the Office of Price Administration's San Francisco Region since September, 1944, has been named to succeed Thomas I. Emerson, Deputy Administrator for Enforcement in OPA's national office, that agency has announced. Mr. Emerson resigned from OPA to accept an appointment as general counsel for the Office of Economic Stabilization.

BAE Reports Fruit Damaged by Freeze Following Warm Weather

The Bureau of Agricultural Economics issued the following summary of freeze and other weather damage to fruit crops in its crop production report for April:

The abnormally warm weather that prevailed in March was followed by colder weather during the first week of April. Temperatures dropped to freezing or lower in the North Central States, in the Northeastern States, and as far south as South Carolina and westward through northern Arkansas into Oklahoma.

Damage to fruit crops was variable, depending upon elevation and other geographic features. Information on this damage is incomplete and inconclusive at this early date. The following summary is based on a quick appraisal of the situation through telephone and telegraph contacts with orchardists and horticultural specialists in the commercial fruit areas of the country.

In New England, growth was not far enough advanced for fruit crops to be seriously hurt by the brief period of low temperatures on April 7, ranging from 10 to 25 degrees. Some damage may have occurred in a few low-lying areas. In New York, frost damage April 5 to 7 is reported slight except in especially susceptible localities. In the lower Hudson Valley, peaches, plums, sweet cherries and currants were nearly in full bloom and probably were moderately injured in some areas. In western New York, sweet cherries, plums and, in some sections, sour cherries were injured irregularly. In the Geneva-Canandaigua area damage to sweet cherries was severe, to "sours" moderate, and to apples light. Moderate injury occurred to apples in less favorable locations in the Hudson Valley and in parts of the eastern Lake Ontario area in western New York.

In Pennsylvania damage from frosts April 6 and 7 ranged from complete loss to no damage, depending upon location of orchards. Average loss to all fruits for the State may run from 5 to 10 per cent of earlier crop prospects. Peaches and cherries suffered most with apple injury relatively light.

In Virginia, West Virginia, and Maryland, frost and freeze on April 6 and 7 caused damage to fruit crops which ranges from complete kill in unfavorably located orchards to only slight or no damage in favorably located orchards. In Frederick, Loudoun, Botetourt, and Roanoke Counties of Virginia, apple prospects are still fair for orchards with good air drainage. Damage apparently was severe for nearly all other apple orchards in Virginia. Damage to Virginia peaches probably was less than to apples but was heavy, nevertheless. The Crozet, Frederick, and Burkeville areas may still produce fair-sized peach crops. Nelson County peaches will probably be almost a complete failure.

In West Virginia only moderate damage occurred to apples in the northern Panhandle. In the eastern Panhandle and Ohio Valley Counties apple damage varies from slight to complete loss. The bulk of West Virginia peach trees were well past full bloom on April 5 except in the northern Panhandle. Damage probably was moderate as a whole because of advanced stage of most peaches. In western Maryland, conditions are spotted with considerable damage reported to peaches and early apples. Late apples were not in full bloom and damage is not expected to be extensive. On the eastern shore of Maryland and in Delaware extensive damage is reported to peaches and apples.

In the 10 early southern peach States, frost damage from April 1 to 8 was light. Reduction in crop prospects apparently is confined to Oklahoma where losses were extremely heavy in the west and moderate in the eastern part of the State.

In Michigan and Wisconsin, no serious frost damage is reported to fruit. In Ohio, sweet cherries are nearly a complete loss but sour cherries and early peaches vary from some reports of complete loss to only slight damage. In the area adjacent to Lake Erie, damage was negligible. Apples show heavy damage in some southern Ohio areas but losses were small in the commercial areas north of Columbus. In the southern Illinois peach district, damage was light on both peaches and apples. In central Illinois, injury was uneven but moderate for the area as a whole.

In Kentucky, damage to tree fruits varies from slight to moderate in western and southern sections to heavy in the central and northern areas. In Missouri, frost damage was generally light but there was moderate injury to peaches and early apples in the southwestern and southcentral parts of the State. In northwest Arkansas, injury to apples and grapes was about 50 per cent and to peaches nearly 100 per cent but elsewhere in the State losses were negligible. In central Kansas, injury varies from probably 75 per cent on peaches and pears to 25 per cent on apples. Commercial orchards in the eastern third of the State show only light damage. In Nebraska, damage varies from light on apples to moderate on peaches.

In northern Colorado, temperatures to zero and lower on April 2 and 3 killed many cherry buds and probably caused a moderate reduction in production prospects. Apparently peaches and apples in Colorado were not injured.

In Florida, very little rain fell in the citrus belt during February and March and groves are beginning to suffer. It is still too early, however, to tell what effect the dry weather will have on the set of fruit for the 1945-46 crop. In Texas, the citrus area did not experience any severe weather during the past winter and groves have been given good care. Trees are in good condition for the new crop season and apparently an excellent set of fruit has held. Arizona citrus groves are in good condition and prospects are favorable for the coming season. In the California citrus areas, soil moisture and general growth conditions are relatively good. The 1945 citrus bloom is not early and very little information is yet available as to what the set will be. The 1945-46 Valencia crop will probably be smaller than in 1944-45 since the Valencia trees in the main producing areas of southern California are carrying such a heavy load of fruit at the present time.

Metal Strapping Supply Short

Because the demand for metal strapping has exceeded the supply, it has been necessary to issue a preference rating order, P-152, to insure that the most essential needs are taken care of first, the War Production Board has reported.

The order permits any person to use an AA-1 rating to obtain metal strapping for the functional uses: Carloading, skidloading, baling and bundling. Strapping used for these purposes conserves or replaces critical lumber, nails, bolts, paperboard, labor and shipping space, WPB pointed out.

Order P-152 also permits persons who use metal strapping for container reinforcement to use the rating assigned for the container it reinforces in accordance with Preference Rating Order P-140 (wooden shipping containers) and P-146 (fiber shipping containers). It also permits use of an AA-5 rating for procurement of reinforcement edgings.

Preference ratings assigned or permitted to be used by P-152 may be applied or extended to any unfilled order for strapping tools, accessories or fittings placed prior to April 6, 1945. However, all orders for metal strapping placed prior to April 6, 1945, must be rerated in accordance with the new order within a period of 45 days.

WAGE AND HOUR EXEMPTION

(Concluded from page 8589)

any kind of fish, shellfish, custacea, sponges, seaweeds or other aquatic forms of animal and vegetable life, including the going to and returning from work," includes those "offshore" or "trip" activities which have to do with the procurement or appropriation from nature of seafood and other forms of aquatic life, and which depend to a considerable degree on natural factors. The activities described in the latter part of the exemption, embracing "the loading, unloading, or packing of such products for shipment or . . . propagating, processing, marketing, freezing, canning, curing, storing or distributing the above products or byproducts thereof," are "shore" activities which in general have to do with the movement of the perishable products to a nonperishable state or to points of consumption. The courts have indicated that this latter part of the exemption may be considered as intended to implement and supplement the first part by exempting "shore" activities which are necessarily somewhat affected by the same natural factors as the "off-shore" or "trip" activities mentioned in the first part of the subsection. These "shore" activities are affected primarily, however, by fluctuations in the supply of a perishable product, or by the necessity for consumption or preservation of such product before spoilage occurs.

The exemption applies to individual employees whose occupations are so related to the activities mentioned in either part of section 13(a)(5) that they are functionally identifiable as an integral part of the production or appropriation of the designated products or of the general movement to consumers or to a nonperishable state of such products. Also, since the legislative history indicates that the first part of the exemption, relating to the catching, taking, etc., of fish, etc., was intended to be not narrower than the exemption provided for employees employed in agriculture in section 13(a)(6) of the act, this part of the exemption is considered to extend to employees employed *in any practices performed as an incident* to fishing, fish farming, or similar operations in the same sense that practices referred to in section 3(f) of the act are performed as an incident to or in conjunction with the farming operations described there.

Under the general principles stated above, if the occupation of an employee employed in connection with the canning of fish, for example, is functionally so directly and closely related to the movement of the perishable product to a nonperishable state that the occupation may be said to be essential to such movement, it will be deemed to be an integral part of such movement and of the canning of fish carried on in the establishment and will, for purposes of the exemption, be considered an exempt canning occupation. Firemen engaged exclusively in providing steam for the processing kettles would thus be within the exemption, but night watchmen, whose work is not a part of the processing activity, would not. Similarly, an employee will be considered as employed in the catching of fish regardless of whether he is physically engaged in actual catching of fish if his occupation is functionally so directly and closely related to the catching of fish that it may be deemed an integral part of that activity, or if he is occupied in work that is performed as an incident to the catching of fish. The exemption would apply, for example, to an employee exclusively engaged in making emergency repairs to fishing nets during the fishing season, but it would not apply to employees engaged in the manufacture of ice for sale to fishing boats.

Data collected on the seafood and fishery industry indicate that many employees in occupations apparently intended by Congress to be exempt perform some duties that would not characterize their occupations as exempt under the language of section 13(a)(5). Unless such duties occupy a substantial portion of any employee's time during the workweek, it is believed that their performance by him should not be considered to defeat the exemption. For enforcement purposes, any employee who devotes 20 per cent or more of his worktime in a particular workweek to performing duties which would not characterize his occupation as exempt under the subsection will be considered as occupied for a substantial portion of his time in nonexempt work and as not within the exemption for that week. However, where both exempt and nonexempt work are performed by an employee during a workweek and the two types of work are not segregated, the 20 per cent limitation on nonexempt work cannot be applied and all the work for that week is considered nonexempt.

WFA Accepts Offers for Sale of Canned Atlantic Mackerel

The Office of Supply (CCC), War Food Administration, as the designated agency to purchase all government requirements of canned Atlantic mackerel, announces that it will now receive offers for the sale of such canned fish required to be set aside pursuant to War Food Order 44, as amended or in accordance with subsequent orders.

Purchases will be made by negotiated Contracts executed by the Commodity Credit Corporation, hereinafter referred to as CCC. The Contract terms and conditions are set forth in three separate documents; Form FDA-474, "Standard Contract Conditions," contains conditions which may apply to purchases of all Commodities; Form PBT-401, "Canned Fish—General Contract Conditions," contains additional terms applying to purchases of canned fish; and Form PBO-463, "Canned Atlantic Mackerel—Offer of Sale," which details the conditions applying specifically to this type of fish.

Canners who expect to operate during 1945, are requested to submit their proposals as soon as practicable, but in any case not later than June 15, 1945. Offers must be submitted on prescribed Offer Form PBO-463, in an original and four signed copies, and must be mailed to Contract Development Section Procurement and Price Support Branch, Office of Supply (CCC), War Food Administration, Washington 25, D. C., at any time prior to but not later than June 15, 1945.

WFA Changes Specifications for Canned Maine Sardines

The Office of Supply (CCC), War Food Administration, has indicated in the past that purchases of Maine sardines would be limited to standard pack 100/¼-pound cans, unwrapped, keyless, and with unscored can covers. It is now recognized that because of the high percentage of the Maine sardine pack required by the Government, canners during the time that available fish is too small for the usual standard pack, may not be able to utilize their packing facilities to the fullest extent unless their deliveries to the Government include a percentage of special pack items. Therefore, canners are now advised that Canned Maine Sardines meeting the following specifications will be accepted:

A. 100/¼s decorated tops (can covers scored for convenience in opening) without keys and not wrapped or in individual cartons, each can containing not less than eight fish, except that in any lot tendered for delivery not more than 10 per cent of the cans may contain not less than five fish, packed in oil, otherwise meeting the terms and conditions of Contracts written on Form PBO-401.

B. The price on this style pack is fixed in Amendment No. 5 to MPR-184 as $5.055 a case basis domestic shipping containers less 2½ per cent on sales to government agencies and less 1½ per cent cash discount in accordance with Amendments 2 and 3, MPR-184 plus the usual allowance for enamelling on cans, strapping and export type cases.

Tenders of this style pack may not exceed 25 per cent of a canner's total tenders of delivery to CCC during April and May, 1945. Notice of Tender of Delivery (Form PBO-401a) should clearly indicate the style of pack of-

fered. Code No. 72 65 117 (Domestic Pack) or 72 65 127 (Export Pack) shall be shown on all shipping containers used for this style pack. Export cases will be required on all shipments unless specific prior arrangements have been made with CCC.

It is suggested that canners who expect to take advantage of this announcement request that their Contracts be amended to include sections A and B of this supplement.

Subsidy to be Added to Ceiling Prices for Grapefruit Juice

Processors who sell grapefruit juice canned during the 1944-45 season to the Commodity Prices Stabilization Corporation, Limited, Ottawa, Canada, may add to their civilian ceiling price the amount of the subsidy that will be payable to them for their domestic sales of canned grapefruit juice, the Office of Price Administration has announced.

The action, which became effective April 7, under Order 69 to the Second Revised Maximum Export Price Regulation, is intended to make it clear that processors who sell canned grapefruit juice to the Commodity Prices Stabilization Corporation, Limited, may later collect the additional charge for subsidy after the amount of the subsidy has been officially determined.

The amount of the subsidy payments to be made to processors of grapefruit juice canned during the 1944-45 season has not yet been officially determined. However, OPA said, under the export regulation, exporters who would be entitled to a subsidy payment if they sold the same commodity for domestic use by civilians, are permitted to include the amount of the subsidy in their export ceiling prices.

Food Allocation under Jones

The War Food Administration has transferred functions related to allocation of food among claimant agencies from the Commodity Credit Corporation to the Office of Administrator Marvin Jones. D. A. FitzGerald, who continues as special advisor to the Administrator, will have supervision and control of the food allocation functions.

Mr. FitzGerald will serve as chairman of the Food Requirements and Allocations Committee, performing the duties assigned to the chairman, including responsibilities in connection with the work of the Combined Food Board. He also will serve as Chairman of the Interagency Food Importation Committee. The assignments and the transfer of functions are effective immediately.

WFA to Receive Offers for the Sale of Canned Salmon

The War Food Administration has announced that it will now receive offers for the sale of such canned salmon packed in the continental United States as are required to be set aside in 1945 pursuant to War Food Order 44, as amended, or as such order may be amended or in accordance with subsequent orders.

Purchases will be made by negotiated contracts executed by the Commodity Credit Corporation. The contract terms and conditions are set forth in three separate documents: Form FDA-474, "Standard Contract Conditions," contains conditions which apply to purchases of all commodities; Form PBT-401, "Canned Fish—General Contract Conditions," contains additional terms applying to purchases of canned fish; and Form PBO-457, "Canned Salmon, Continental United States—Offer of Sale," which details the conditions applying specifically to those types of fish.

Canners who expect to operate during 1945 are requested to submit their proposals on the offer of sale form as soon as practicable, but in any case prior to September 15, 1945. One contract will cover the entire quantity of such canned fish purchased for delivery to government agencies during the 1945 packing season and only one contract number will be assigned each canner for his entire operation.

Offers must be submitted on prescribed offer Form PBO-457 in an original and four signed copies, and must be mailed to Contract Development Section, Procurement and Price Support Branch, Office of Supply (CCC), War Food Administration, Washington 25, D. C.

Refrigerator Car Order Revoked

The Interstate Commerce Commission has notified the Association that Taylor's ICC Order 219 will be revoked effective April 15 instead of April 10 as previously announced.

WFA Canned Pea Offers

The War Food Administration is offering for sale to original processors approximately 136,393 cases canned peas from 1942, 1943, and 1944 packs. This is another part of an original lot of government-owned peas consisting of 728,850 cases.

The original processors will be given until 5 p.m., EWT, April 23, to submit an offer to purchase, to Sales Branch, WFA Office of Supply, Washington 25, D. C.

The following list shows the type of pack, grade, and number of cases of peas being offered:

24/2's—Standard Alaskas, 36,785; Extra Standard Alaskas, 2,611; Offgrade Alaskas, 6,625; Extra Standard Sweet, 29,924; Standard Sweet, 45,198; Standard Alaska and Sweet, 6,159; and 6/10's—Standard Sweet, 14,748; Extra Standard Sweet, 3,396; Fancy Sweet, 1,894.

Packing House Workers Are Ruled Agricultural Employees

In a case arising under the Idaho unemployment compensation statute, the Idaho Supreme Court held recently that packing house employees working on vegetables grown by the employer and by others are agricultral employees not covered by the State law. (In re Batt, decided March 14.)

The case arose by the employer's suing for refund of State unemployment taxes. The packer packed for shipment various vegetables grown by him on his farms and also vegetables grown by other farmers. The State Board held the packing house workers were not engaged in agricultural labor.

The court pointed out that the employer under the State act did not have to pay taxes on services done by his employees on his own produce and that the work done on produce of other farmers was no different. The court concluded that the work was therefore agricultural and that the character of the work was not changed because it was performed at some place other than the grower's farm.

A controlling fact in the decision appears to be that the employer himself was engaged in large scale farming.

Gulf Seafood Production Up

Production of seafoods in the Gulf of Mexico area increased substantially during the first quarter of 1945, compared with the previous year, according to figures released by Coordinator of Fisheries Harold L. Ickes.

A total of 43,226 barrels of shrimp were received at Gulf coast centers compared with 30,885 barrels during the first three months of 1944, while the catch of hard crabs rose from 744,108 pounds in 1944 to 1,056,580 pounds. Still hampered by the serious labor shortage the oyster industry's output declined 19 per cent—257,200 barrels as compared with 316,820 last year.

WFA Clarifies Announcement on Snap Bean Grower Prices

A revision of 1945 grower support prices on snap beans for canning, issued by the War Food Administration on April 6, substantially restored the 1944 price support level for this commodity, and revoked the 1945 schedule of prices previously announced on February 14.

The April 6 announcement stated that these new prices were to be effective on May 1, 1945. In specifying this date, WFA states it was meant that deliveries on and after May 1, 1945, under contracts must be at the schedule of grower support prices announced on April 6. The 1944 schedule of grower support prices for snap beans for canning is applicable on deliveries to certified canners up to and including April 30.

The support prices on the other three major vegetables for canning, sweet corn, green peas, and tomatoes, remain unchanged from the levels announced February 14.

Support prices on each of these four vegetables are available to growers by means of written contracts with certified canners. They continue in effect as to all tonnage contracted for delivery to canners on or before December 29, 1945, except that, for snap beans, the 1945 support prices remain in force on tonnage contracted for delivery up to and including February 26, 1946.

Canners who have contracted for snap beans at less than the prices now established will be eligible for certification (or may retain certified status already secured) provided their contracts with growers are revised upward to conform to the new prices.

Levi B. Phillips Dies

Levi B. Phillips, 76, who, with his brother Albanus and W. G. Winterbottom, founded the Phillips Packing Co., at Cambridge, Md., in 1900, died April 7, in Baltimore following a long illness. Besides his activity in the canning industry he served for 33 years as president of the National Bank of Cambridge, was a director of the Baltimore branch of the Richmond Federal Reserve Banks, and a former vice president of the American Bankers Association.

Asparagus Standards Hearing

A public hearing upon a proposal to amend the definition and standards of identity for canned asparagus will be held at the Department of Agriculture on May 8. The proposed amendment would provide for the optional use of the liquid expressed from asparagus stalks or parts of such stalks as a packing medium for canned asparagus.

In lieu of oral testimony interested persons may submit affidavits at any time prior to the hearing. They should be submitted in quintuplicate and be addressed to Edward E. Turkel, Food and Drug Administration, who will preside at the hearing, at Room 4148, South Building, U. S. Department of Agriculture, Washington, D. C.

Spring Crop Larger than 1944

April 1 indications covering earlier acreages in the spring groups point to an aggregate tonnage about 8 per cent greater than in 1944 and nearly one-third larger than the 10-year (1934-43) average, the Bureau of Agricultural Economics has reported. This tonnage, which comprises roughly 60 to 65 per cent of the spring total, is expected to be harvested from an acreage 2 per cent above that of last spring and 12 per cent above average.

Production of each spring crop estimated to date is indicated to be higher than in 1944 with the exception of cauliflower, spinach, early spring asparagus and onions, with an increase in early spring snap beans more than offsetting an indicated reduction in the mid-spring group. Indicated tonnage of 1945 spring crops, expressed as percentages of 1944 and the 10-year averages, respectively, are as follows:

Early spring asparagus, 94 and 102; early and mid-spring snap beans, 110 and 91; beets, 120 and 60; early spring cabbage, 115 and 125; carrots, 120 and 150; cauliflower, 92 and 107; celery, 120 and 128; cucumbers, 218 and 122; eggplant, 108 and 172; early spring lettuce, 109 and 146; early spring onions, 72 and 115; early spring green peas, 135 and 102; green peppers, 139 and 131; shallots, 157 and 94; spinach, 84 and 94; early spring tomatoes, 125 and 222, and the combined total of the preceding 16 crops, 108 and 131.

More Liner Board Is Needed

Military and Foreign Economic Administration requirements for fiber shipping containers, including V-boxes, have increased to such an extent that the War Production Board may have to ask the boxboard manufacturers to make some liner board for use in manufacturing shipping containers. WPB officials said they doubted that production of regular containerboard mills could be increased to any great extent. If more pulp is produced or acquired and containerboard mill production can be stepped up, the difficulty may be overcome, they said, but otherwise boxboard mills will have to be required to manufacture some liner board where practical.

WFA Extends Subsidy Program

The War Food Administration has extended the terminal date of the period for eligible sales of designated canned foods, under the 1944 subsidy program, from April 30, 1945, through June 30, 1945. Final date for filing applications for payment also has been extended, from May 31, 1945, through June 30, 1945. Terminal date for the eligible period of production (April 30, 1945) remains unchanged.

Designated canned foods included in the program, announced July 22, 1944, and later amended, are canned green peas, green pea soup, snap beans, sweet corn, tomatoes, tomato juice, tomato soup, tomato catsup, tomato puree, tomato paste, tomato sauces, tomato juice used in canned mixed vegetable juices, and tomato cocktail. Purpose of program is to permit canners to pay support prices to growers, and to pack and sell the designated canned foods under civilian price ceilings.

Bulletins for Crop Growers

Recent bulletins and circulars of interest to canners published by the U. S. Department of Agriculture include the following:

"Control of the Mexican Bean Beetle in Irrigated Districts in the West." Circular 675. 10¢

"Strains of the European Corn Borer in the United States." Technical Bulletin 869. 10¢

"The Citrus Thrips, Measures for Its Control, and Their Effect on Other Citrus Pests." Circular 708. 10¢

"Pruning and Training Tomatoes in the South." Circular 712. 10¢

"Production of Carrots." Leaflet 125. 5¢

Copies of these publications may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D. C., at the prices indicated above.

Mexican Bean Beetle Bulletin

The Mexican bean beetle is the most destructive insect affecting beans in Maine, and the bean crop as a whole is never entirely free from infestation, according to a report, Bulletin No. 431, entitled, "The Mexican Bean Beetle in Maine," which was published recently by the Maine Agricultural Experiment Station at Orono.